

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Implementation of the Local Competition )  
Provisions in the Telecommunications Act )  
of 1996 )

CC Docket No. 96-98

Interconnection between Local Exchange )  
Carriers and Commercial Mobile Radio )  
Service Providers )

CC Docket No. 95-185

**COMMENTS OF TELIGENT, INC.  
CONCERNING BELL SOUTH CORPORATION'S PETITION  
FOR RECONSIDERATION/CLARIFICATION**

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Teligent, Inc. ("Teligent") hereby submits its Comments Concerning BellSouth Corporation's Petition for Reconsideration/Clarification<sup>1</sup> in the above-captioned proceeding.<sup>2</sup>

**I. INTRODUCTION**

Teligent strongly supports the Commission's inside wire and single point of interconnection ("SPOI") conclusions in the *UNE Remand Order*. Because of the Commission's

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<sup>1</sup> Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, *BellSouth Petition for Reconsideration/Clarification* (filed Feb. 17, 2000)("Petition" or "BellSouth Petition").

<sup>2</sup> Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket Nos. 96-98 and 95-285, *Third Report and Order and Fourth Further Notice of Proposed Rulemaking*, FCC 99-238 (rel. Nov. 5, 1999)("UNE Remand Order").

decision to identify a building's inside wiring as a subloop to which ILECs must offer requesting telecommunications carriers unbundled access, ILECs are proscribed from using their ownership of intra-building facilities to impede their competitors' access to consumers in multi-tenant buildings. Facilities-based CLECs continue to encounter building owner-erected barriers to serving consumers in multi-tenant buildings and the Commission is considering such matters in its *Competitive Networks* rulemaking.<sup>3</sup> But, where a building owner consents to a CLEC's access to the building, the *UNE Remand Order*'s conclusions remove ILEC barriers and seek to ensure that CLEC access to the consumer can be accomplished. Consequently, the *UNE Remand Order* is consistent with the Commission's recognition that "[a]ccess by competing telecommunications service providers to customers in multiple tenant environments is critical to the successful development of competition in local telecommunications markets."<sup>4</sup>

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<sup>3</sup> Promotion of Competitive Networks in Local Telecommunications Markets; Wireless Communications Association International, Inc. Petition for Rulemaking to Amend Section 1.4000 of the Commission's Rules to Preempt Restrictions on Subscriber Premises Reception or Transmission Antennas Designed To Provide Fixed Wireless Services; Cellular Telecommunications Industry Association Petition for Rule Making and Amendment of the Commission's Rules to Preempt State and Local Imposition of Discriminatory And/Or Excessive Taxes and Assessments; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, WT Docket No. 99-217 and CC Docket No. 96-98, *Notice of Proposed Rulemaking and Notice of Inquiry in WT Docket No. 99-217, and Third Further Notice of Proposed Rulemaking in CC Docket No. 96-98*, 14 FCC Rcd 12673 (1999).

<sup>4</sup> Id. at ¶ 29.

**II. ABSENT SIGNIFICANT MODIFICATIONS, BELL SOUTH'S REQUEST FOR RECONSIDERATION OF THE INSIDE WIRE DEFINITION COULD HAVE HARMFUL EFFECTS FOR THE COMMISSION'S OBJECTIVES.**

BellSouth appears not to object to the subloop unbundling requirements that facilitate CLEC access to consumers in multi-tenant buildings.<sup>5</sup> It nevertheless requests that the Commission reconsider the definition of inside wire adopted in the *UNE Remand Order*. For reasons having to do with confusion over facility ownership and accounting treatment of facilities, BellSouth asks the Commission to retain the traditional definition of "inside wire" and to apply the Uniform System of Accounts definition of "intrabuilding network cable" to that portion of the ILEC network that must be unbundled.<sup>6</sup>

In its comments, Teligent sought to distinguish the limitations of the term "inside wire" as traditionally used from the "intra-building wiring" to which unbundled access was needed by CLECs.<sup>7</sup> Teligent noted that the term "inside wire" occasionally operates in some fora as a term of art that might exclude the wiring to which Teligent and other CLECs must have access. Inside wire traditionally was defined by the Commission as "the customer premises portion of the telephone plant that connects customer premises equipment to the public switched telephone network and to other CPE."<sup>8</sup> Given that most intra-building wiring is not located on the

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<sup>5</sup> *BellSouth Petition* at 4 ("BellSouth does not object to unbundling this sub-loop component of the network provided that the proper definition is adopted.").

<sup>6</sup> *Id.* at 3.

<sup>7</sup> Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange and Commercial Mobile Radio Service Providers, CC Docket Nos. 96-98 and 95-185, *Comments of Teligent, Inc.* at 4, n.4 (filed May 26, 1999).

<sup>8</sup> Review of Sections 68.104 and 68.213 of the Commission's Rules Concerning Connection of Simple Inside Wiring to the Telephone Network and Petition for Modification of

"customer premises," Teligent refrained from limiting its discussion to "inside wire" as such a limitation could have been interpreted to exclude access to the wiring within a building not located on the customer premises -- the lion's share of the wiring to which Teligent and other CLECs must have access. The definition of "inside wire" is used and applied loosely by various fora and, depending upon the context in which it is used, it sometimes is assumed to include wiring within a multi-tenant building that is not located on the customer premises. Nevertheless, to be precise, Teligent deliberately employed the more comprehensive terms "intra-building wiring" or "intra-MTE wiring" to encompass both inside wiring (as strictly defined by the Commission) and telephone wiring within a building that is not located on the customer premises (such as vertical and horizontal riser cables).

In the *UNE Remand Order*, the Commission indicated that it understood the distinctions that Teligent sought to make in its comments, but that "even the term 'intra-building wiring' may suggest limitations that do not apply in some situations, because 'inside' wire is often out-of-doors, as is the case at garden apartments and campuses, among other places."<sup>9</sup> Consequently, the Commission stated that the terms "inside wire" and "customer premises" were being used for the sake of convenience and acknowledged that "the wire may be out-of-doors, and the 'customer' may be a subscriber, a landlord, a condominium, a university, and so on."<sup>10</sup> Through the meaning it ascribes to "inside wire," the Commission accomplishes its pro-competitive objectives. Namely,

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Section 68.213 of the Commission's Rules filed by the Electronic Industries Association, CC Docket No. 88-57, RM-5643, Order on Reconsideration, Second Report and Order and Second Further Notice of Proposed Rulemaking, 12 FCC Rcd 11897 at ¶ 1 (1997).

<sup>9</sup> *UNE Remand Order* at ¶ 170.

<sup>10</sup> Id.

the Commission seeks to offer requesting carriers the flexibility to lease subloop portions of the ILEC networks as they construct their own independent networks. Consequently, Teligent sees no need for the Commission to reconsider the more inclusive definition of "inside wire" in order to achieve its stated goals.

The Commission defines the loop to terminate at the same point as the incumbent LEC's control over facilities that it owns.<sup>11</sup> This definition is intended to permit requesting carriers to gain access to the entire loop, including inside wire.<sup>12</sup> Through the use of these definition, the Commission intends that ILECs permit subloop unbundling in a manner that "allows requesting carriers maximum flexibility to interconnect their own facilities at [those] points where technically feasible . . . ." <sup>13</sup>

The alternative definition proposed by BellSouth would require subloop unbundling of "the cables and wires located on the company's side of the demarcation point or standard network interface inside subscribers' buildings on one customer's same premises." Teligent would not oppose continued use of the more traditional inside wire definition and the use of the term "intrabuilding network cable" to identify the subloop elements that must be unbundled, insofar as the definition contains safeguards to ensure that the ILEC could not impair the Commission's subloop unbundling objectives.<sup>14</sup> Teligent's primary concerns with BellSouth's proposed

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<sup>11</sup> Id. at ¶ 171.

<sup>12</sup> Id.

<sup>13</sup> Id. at ¶ 207.

<sup>14</sup> The Commission is urged to scrutinize ILEC attempts to modify the Commission's rules as they affect inside wiring. The history of inside wiring issues has involved the exploitation of an ILEC's dominant market position to the detriment and expense of consumers. See, e.g., Davis v. Southern Bell Tel. & Tel. Co., 158 F.R.D. 173 (S.D. Fla. 1994). The

definition concern the potential effect of applying the phrases "or standard network interface" (or NID) and "on one customer's same premises."

The Commission observes that "the demarcation point may be located either at the NID, outside the NID, or inside the NID."<sup>15</sup> Under BellSouth's proposed definition, the ILEC must provide subloop unbundling only on the ILEC's side of the NID. However, as noted above, the demarcation point may be located inside the NID (that is, between the NID and the customer premises). Under BellSouth's proposal, the NID rather than the demarcation point becomes the pivotal location for subloop unbundling. Consequently, there remains the possibility that the ILEC facilities that extend from the NID to the customer premises -- still a part of the ILEC network -- would not have to be unbundled at the subloop level. Consequently, if the Commission is inclined to adopt BellSouth's proposal, Teligent strongly urges elimination of the phrase "or standard network interface" from the definition in order to avoid defeating accomplishment of the subloop unbundling objectives in the *UNE Remand Order*. In this manner, the subloop unbundling obligations would extend to the demarcation point -- the point at which the ILEC's network ends.

Similarly, Teligent has concerns about the phrase "on one customer's same premises" in BellSouth's proposed definition. Again, this language is sufficiently vague that it could be used to defeat the pro-competitive accomplishments of the *UNE Remand Order*'s subloop unbundling requirements. The Commission acknowledges that in referring to customer premises, a

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Commission should ensure that ILECs are not given increased capabilities to exploit market dominance due to rule changes in the instant proceeding.

<sup>15</sup> *UNE Remand Order* at ¶ 169.



"customer' may be a subscriber, a landlord, a condominium, a university, and so on."<sup>16</sup> Using this language and applying it to BellSouth's proposal, the "on one customer's same premises" clause could exclude from subloop unbundling obligations those facilities that traverse the premises of more than one "customer." That is, the ILEC would not be required to provide access to facilities that traverse the landlord's property and the tenant's property both -- where the demarcation point is located somewhere within the tenant's property -- because those facilities will not be on "one customer's same premises" but rather on two customers' premises. Again, to promote clarity and minimize unnecessary disputes, if the Commission is inclined to adopt BellSouth's proposal, Teligent urges elimination of the phrase "on one customer's same premises" from BellSouth's proposed definition of "intrabuilding network cable."

Teligent continues to advocate universal relocation of the demarcation point to the minimum point of entry in all multi-tenant buildings upon request. Until such time as the demarcation point is relocated to the minimum point of entry in all multi-tenant buildings, Teligent does not oppose BellSouth's efforts to maintain the accounting privileges of intra-building wiring that it currently enjoys. Indeed, even after the demarcation point is relocated, Teligent would not oppose retention of the ILEC accounting privileges for these facilities because relocation of the demarcation point does not necessarily entail a transfer of ownership from the ILEC to the building owner; it merely distinguishes where the ILEC's *control* of the wiring ends. For accounting purposes, the relocation of the demarcation point would be of little relevance.

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<sup>16</sup> Id. at ¶ 170.

### **III. BELL SOUTH'S PROPOSAL TO LIMIT SPOI REQUIREMENTS WOULD UNNECESSARILY LIMIT REQUESTING CARRIER ACCESS TO ILECS' INTRA-BUILDING FACILITIES.**

BellSouth also seeks to ensure that its obligation to construct a single point of interconnection ("SPOI") is required only where the incumbent controls facilities at, or running to, the end user.<sup>17</sup> BellSouth is concerned that if it controls distribution facilities providing service to the customer, but does not own facilities on the customer's premises, it should not be required to construct a single point of interconnection.<sup>18</sup> The Commission should reject BellSouth's request. Of course, practically considered, where the ILEC maintains no facilities at all on a multi-unit premises, there is little reason to require it to construct a single point of interconnection.

However, where the incumbent owns or controls facilities in a building -- even if those facilities do not run to the end user -- it owns or controls facilities to which telecommunications carriers may require access or with which telecommunications carriers may require interconnection.<sup>19</sup> An SPOI is necessary to accomplish such access or interconnection and the ILEC should not be relieved of its obligation to construct an SPOI simply because its facilities do not run to the end user. Put simply, the ILEC's SPOI requirement should apply where the incumbent controls or owns facilities at, or running to, the end user or where the incumbent controls or owns facilities on the carrier-side of the demarcation point in a multi-unit premises.

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<sup>17</sup> *BellSouth Petition* at 5.

<sup>18</sup> Id.

<sup>19</sup> The Commission concludes that "access to subloop elements is likely to be the catalyst that will allow competitors, over time, to deploy their own complementary subloop facilities, and eventually to develop competitive loops." *UNE Remand Order* at ¶ 205. It is equally true that, for a period of time, a competitive carrier may prefer to lease the limited ILEC facilities in a multi-tenant environment and construct its own facilities from termination of the ILEC facilities to the end user's premises. An SPOI would be necessary under such an arrangement but would not be installed under BellSouth's proposal.

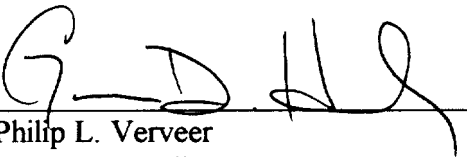
#### IV. CONCLUSION

Teligent strongly supports the Commission's inside wire and single point of interconnection ("SPOI") conclusions in the *UNE Remand Order* and believes reconsideration of those decisions is unnecessary. However, to the extent that the Commission adopts the proposals in BellSouth's Petition for Reconsideration/Clarification, Teligent respectfully urges that the Commission include the modifications proposed herein in order to preserve the pro-competitive benefits of the *UNE Remand Order*.

Respectfully submitted,

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